

CGA Government Administration and Elections Committee
March 6,, 2020 Public Hearing
Testimony Presented by Laura Smits, VP, LWVCTVoter Service

Support for:

SB 368: AA Concerning the Counting of Incarcerated Persons for Purposes of Determining Legislative Districts

The League of Women Voters of CT supports SB368, a bill which would end the practice of enumerating incarcerated persons in the town where the prison is located rather than in their home communities. This practice is known as “prison-based gerrymandering”.

Our support is located within two long-standing positions held by the LWV: our position on apportionment which holds that congressional districts should be based on population; and our support for Voting Rights which recognizes that reapportionment should not dilute effective representation of minority citizens (Impact on Issues, p. 20 and p. 21).

As you know, incarcerated persons are to be enumerated along with all other persons in the decennial Census which will be undertaken this year. The question is to what locality will inmates be attributed? Currently in Connecticut inmates are counted as residents in the district where the prison is located rather than at their home addresses. Prisons are located in rural, less populated areas, the population of which is predominantly white. Inmates are often from urban areas which are disproportionately communities of color. The current enumeration practice simultaneously distorts the true population basis on which apportionment should rest and creates a race-based gerrymander by diluting the effective representation of communities of color. In this year of the decennial Census, the League, as well as state officials, are emphasizing a Complete Count particularly for communities of color. However, the current practice creates a structural and systematic undercount for those

communities which will affect them with respect to political representation and to services and funds allocated on the basis of population.

In testimony last year on HB 5611, legal experts from the Rule of Law Clinic of Yale University and the Prison Policy Initiative of neighboring Massachusetts, outlined the legal arguments- rooted both in CT state law and the U.S. Constitution- against counting inmates in the town where the prison is located rather than their home jurisdictions. We find several arguments from the legal experts' testimony particularly compelling.

1. Connecticut law establishes that residents will not be deemed to have lost residence in any town "... by reason of his absence therefrom in any institution maintained by the state" (General Statutes of Connecticut section 9-14). This fact is underscored by the practice of, upon a prisoner's release, the Secretary of State informs the Registrar of Voters of the released person's home community regarding restoration of voting rights. The SOTS does not after all notify the Registrar of the town in which the prison is located.

2. The Constitution requires states to make their legislative districts equal in size on a population basis in order to create equality of representation. This is the "one person, one vote" principle. Deviations of greater than 10% have been deemed presumptively illegal. When districts are modeled with incarcerated persons attributed to their home communities, the result is nine Connecticut House Districts that trigger that numerical threshold, and thus, legal experts argue, are unconstitutional.

In summary, the League of Women Voters of Connecticut supports the practice of enumerating inmates in their home communities rather than in the community where the prison is located. We urge the General Assembly to join other states including neighboring New York which have passed legislation to end this prison-based gerrymandering. The time for action is now. Finally it is simply fair and just that the home communities of the formerly incarcerated, the communities to which many will return and live, receive the political representation and resource allocations that align with their true population base.

Thank you for the opportunity to present testimony before you here today.